IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7150 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KARAN ENTERPRISES THRO' KANTILAL M PATEL

Versus

AREA MANAGER (WEST)

Appearance:

MS SANGEETA PAHWA for MR PM THAKKAR for Petitioner

RULE SERVED for Respondent No. 1

SERVED BY RPAD - (R) for Respondent No. 2

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 22/09/2000

ORAL JUDGEMENT

#. By filing this petition, the petitioner has made a grievance about the illegal and arbitrary action of the respondent No.1 whereby his telephone line was

disconnected.

#. The petitioner has contended that he is the owner of the office premises situated at the address mentioned in the petition, and has been telephone subscriber No. 445834. It is stated on oath by the petitioner that he has been regularly paying the bills issued by the respondent towards rent and calls made by him. It is stated by the petitioner that the petitioner has fully paid up all the bills and no amount is outstanding.

#. From the tenor of the petition it appears that the petitioner's premises was also occupied by someone else, and possibly on this ground, the phone was disconnected. However, learned advocate has drawn attention to clause 421 of the Indian Telegraph Rules, 1951. Learned advocate submitted that the telephone could not have been disconnected without hearing the petitioner. Her submission is that, as a matter of fact, the petitioner being a regular customer using the telephone since long and paying the subscription charges regularly, the petitioner should not have been deprived of the telephone facilities without hearing the petitioner. It is well settled position of law that without hearing a party, the State cannot take an action, more particularly when a right is conferred.

#. Despite the fact that process has been served on the respondents, the respondents have chosen not to appear the Court. This Court could have granted the relief prayed for by the petitioner as the averments made therein have not been controverted by the respondents. However, in the interest of justice, we direct the respondents to hear the petitioner within a period of one month from today, and to communicate the decision to the petitioner within one week thereafter. It would be open for the petitioner to move the Court in case of difficulty. With these directions, this petition stands allowed accordingly. Rule made absolute accordingly. No order as to costs.

(B.C. PATEL, J.)
csm./